

Attorney Docket No. 02/084 NUT  
Customer No. 38263



DFW ✓

PATENT

IN THE UNITED STATES PATENT AND TRADEMARK  
OFFICE PATENT OPERATIONS

In re: Bernd HABER *et al.*

Application No.: 10/538,903

Filing Date: June 14, 2005

Title: *Dietary Foodstuff for Positively Influencing Cardiovascular Health*

Art Unit: 1761

Examiner: M. L. McCormick

Commissioner for Patents  
Alexandria, VA 22313-1450  
Dear Sir:

Charlotte, NC 28211  
July 25, 2006

**SUPPLEMENTAL INFORMATION DISCLOSURE STATEMENT**

An Information Disclosure Statement (IDS) was initially filed on June 14, 2005. The Office Action of July 5, 2006 indicates that physical copies were not included. Applicants respectfully submit that electronic copies of the references, which are quite lengthy, were provided on a CD enclosed in the IDS of June 14, 2005. Consequently this revised IDS, providing the requested physical copies, is filed under 37 C.F.R. 1.97(c) after the first Office Action on the merits, but before a Final Office Action or a Notice of Allowance. The \$180.00 fee set forth in 37 CFR§ 1.17(p) in accordance with 37 CFR§ 1.97(c) is to be charged to Deposit Account No. 50-2193.

Exhibits 1 - 3 were taken from a review of co-pending U.S. Application No. 10/539,174, commonly assigned to Nutrinova Nutrition Specialties & Food Ingredients GmbH, also filed on June 14, 2005. This submission, made out of an abundance of caution and in compliance with *Dayco Products, Inc. v. Total Containment, Inc.* 329 F.3d 1358 (Fed. Cir. (MO) May 23, 2003), does not represent that the above-noted cases constitute an application family. Applicant respectfully requests that each reference be reviewed and made of record in the instant application. Each of the references noted within the attached Forms PTO/SB/08A and PTO/SB/08B are being simultaneously supplied in U.S. Application No. 10/539,174. Consequently, it is assumed that no copies need be furnished. However, copies will be furnished upon request.

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This submission further does not represent that no better art exists and does not constitute an admission that each or all of the listed documents are material or constitute "prior art."

Respectfully submitted,

*Cathy Moore*

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**CERTIFICATE OF TRANSMISSION/MAILING**

I hereby certify that this correspondence is being deposited with the United States Postal Service with sufficient postage as first class mail in an envelope addressed to: Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450 on the date shown below.

<u>Typed or printed name</u>	Claire Wygand		
<u>Signature</u>	<i>Claire Wygand</i>	Date	7/25/06

# Exhibit 1



PTO/SB/08A				Complete if Known				
Substitute for Form 1449A/PTO <b>INFORMATION DISCLOSURE STATEMENT BY APPLICANT</b>				App. No.	10/538,903			
				Filing Date	June 14, 2005			
				First Named Inventor	Bernd HABER			
				Group Art Unit	1761			
				Examiner Name	M. L. McCormick			
Sheet	2	Of	2 Sheets	Atty Docket No.	02/084 NUT (submitted in 02/085 NUT)			

## FOREIGN PATENT DOCUMENTS

Examiner Initials*	Cite No.	Office Code	Foreign Patent Document Number	Kind	Name of Patentee or Applicant of Cited Document	Publication Date	Class	Subclass	T 6
		WO	95/35277	A1	Schering Corp.	12/28/1995	C07D	205/08	X
		WO	96/38047	A1	Unilever	06/01/1995	A23D	9/00	X
		WO	97/33882	A1	G.D. Searle & Co.	9/18/97	C07D	337/08	X
		WO	99/56558	A1	Raisio Benecol OY	07/08/2003	A23D	9/007	X
		WO	02/058733	A2	Schering Corp.	08/01/2002			
		EP	0 616 780	A2	Compania General Del Algarrobo	09/28/1994	A23L	1/308	X
		JP	60-196157		Amano Seiyaku	10/04/1985	A23L	1/03	
		JP	63-216490		Sagami Chem. Res. Ctr.	09/08/1988	C12P	7/64	
		JP	2000/245442		Sagami Chem. Res. Ctr.	09/12/00	C12n	1/20	
		JP	2001/309797		Nat. Institute of Advanced Industrial Science & Tech.	11/06/2001	C12P	7/64	
Examiner Signature				Date Considered					

IDS cited in spec

# Exhibit 2



PTO/SB/08A				Complete if Known		
<b>Substitute for Form 1449A/PTO</b> <b>INFORMATION DISCLOSURE</b> <b>STATEMENT BY APPLICANT</b>				App. No.	10/538,903	
				Filing Date	June 14, 2005	
				First Named Inventor	Bernd HABER	
				Group Art Unit	1761	
				Examiner Name	M. L. McCormick	
Sheet	1	Of	1	Attorney Docket Number	02/084 NUT (submitted in 02/085 NUT)	

U.S. PATENT DOCUMENTS							
Examiner Initials'	Cite No.	U. S. Patent Number	Kind Code	Name of Patentee or Applicant of Cited Document	Date of Publication of Cited Document MM-DD-YYYY	Class	Sub class

FOREIGN PATENT DOCUMENTS								
Examiner Initials'	Cite No.	Foreign Patent Document		Name of Patentee or Applicant of Cited Document	Date of Publication of Cited Document MM-DD-YYYY	Class	Subclass	T6
		Office Number	Kind Code					
		EP	0 616 780	A2	Compania General Del Algarrobo	09/28/1994	A23L	1/308 X
		EP	1 203 535	A1	Ind Agricolias de Mallorca SA: Universitat de les Illes Balears	05/08/2002	A23L	1/172 X
		WO	02/43659		SmithKline Beecham Corp; Bendich Adrienne	06/06/2002	A61K	31/07 X
		JP	62061925 Abstract		Riken Kagaku Kogyo KK	03/18/1987	A61K	35/78
Examiner Signature				Date Considered				

# Exhibit 3



PTO/SB/08B				Complete if Known
Substitute for Form 1449A/PTO				
<b>INFORMATION DISCLOSURE STATEMENT BY APPLICANT</b>				
App. No.	10/538,903			
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Examiner Name	M. L. McCormick			
Sheet	1	OF	1	Attorney Docket Number 02/084 NUT (submitted in 02/085 NUT)

<b>OTHER PRIOR ART – NON PATENT LITERATURE DOCUMENTS</b>			
Examiner Initials'	Cite No.	Include name of the author (in CAPITAL LETTERS), Title of the Article (when appropriate), title of the item (book, magazine, journal, serial, symposium, catalog, etc), date, page(s), volume-issue number(s), publisher, city and/or country where published	T6
		ST-ONGE MARIE-PIERRE et al. "Consumption of a diet containing medium chain triglycerides, phytosterols and flaxseed oil for 28 d decreased blood lipid parameters compared to a diet containing olive oil" FASEB JOURNAL, Vol. 16, no. 4; March 20, 2002 p. A636 XP009028412 Annual Meeting of the Professional Research Scientists on Experimental Biology; New Orleans, Louisiana, April 20-24, 2002 ISSN: 0892-6638 the whole document	x
		DREXEL H et al.: "Therapy of hyperlipoproteinemia!" SCHWEIZERISCHE RUNDSCHAU FUR MEDIZIN PRAXIS = REVUE SUISSE DE MEDECINE PRAXIS. Switzerland April 27, 1993 Vol. 82, no. 17; pp 506-509 XP009028411; ISSN: 1013-2058 , Tabelle p 508	x
		FARMER J. A. et al.: "Choosing the right lipid-regulating agent: A guide to selection" DRUGS 1996 NEW ZEALAND. Vol. 52, no. 5; pp 649-661, XP009028410; ISSN: 0012-6667 , p 652; table 3	x
EXAMINER		DATE CONSIDERED	
EXAMINER: Initial citation considered, whether or not citation is in conformance with MPEP 609. Draw line through citation if not in conformance and not considered. Include copy of this form with next communication to applicant.			



PTO/SB/08A		Complete if Known			
<b>INFORMATION DISCLOSURE STATEMENT BY APPLICANT</b> Substitute for Form 1449A/PTO-147, TRADEMARK		App. No.	10/538,903		
		Filing Date	June 14, 2005		
		First Named Inventor	Bernd HABER		
		Group Art Unit	1761		
		Examiner Name	McCormick		
Sheet	1	Of	1	Attorney Docket Number	02/084 NUT

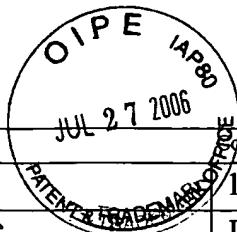
#### U.S. PATENT DOCUMENTS

Examiner Initials'	Cite No.	U. S. Patent Number	Kind Code	Name of Patentee or Applicant of Cited Document	Date of Publication of Cited Document MM-DD-YYYY	Class	Sub class

#### FOREIGN PATENT DOCUMENTS

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		Office Number	Kind Code					
		EP	A2	Compania General Del Algarrobo	09/28/1994	A23L	1/308	X
Examiner Signature			Date Considered					

IDS in EPO rpt

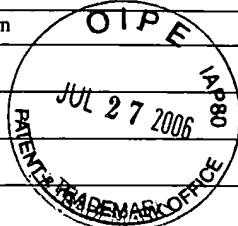


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Substitute for Form 1449A/PTO				App. No.	10/538,903
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				Examiner Name	M. L. McCormick
				Sheet	1

OTHER PRIOR ART – NON PATENT LITERATURE DOCUMENTS			
Examiner Initials*	Cite No.	Include name of the author (in CAPITAL LETTERS), Title of the Article (when appropriate), title of the item (book, magazine, journal, serial, symposium, catalog, etc), date, page(s), volume-issue number(s), publisher, city and/or country where published	T6
		CONQUER JULIE A. et al., "Supplementation with an algae sourceh of docosahexaenoic acid increase (n-3) fatty acid sttus and alters selected risk factors for heart disease in vegetarian subjects" Zusammenfassung & JOURNAL OF NUTRITION, Vol 126, No. 12, 1996 pp 3032-3039 XP002277556	X
		GARG M. L. et al., "The importance of dietary eicosapentaenoic to docosahexaenoic acid ratio in modulation of serum lipid and arachidonic acid levels" Zusammenfassung & NUTRITION RESEARCH, Vol 14, No. 10, 1994 pp 1575-1582 XP002277557	X
		HABER B, "Carob Fiber Benefits and Applications" , CEREAL FOODS WORLD, Vol. 47, No. 8, 2002, pp 365-369	X
EXAMINER		DATE CONSIDERED	
EXAMINER: Initial citation considered, whether or not citation is in conformance with MPEP 609. Draw line through citation if not in conformance and not considered. Include copy of this form with next communication to applicant.			

IDS EPO RPT

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Examiner Initials'	Cite No.	Office Code	Foreign Patent Document Number	Kind	Name of Patentee or Applicant of Cited Document	Publication Date	Class	Subclass	T6
		WO	91/07398	A1	Novo Nordisk	06/30/1991	C07D	401/04	X
		WO	91/11918	A1	Martek Corp.	08/22/1991	A23L	1/054	X
		WO	96/33263 =US6,582,941	A1	Agency Ind Science Techn	02/11/1998	A23K	1/161	
		WO	96/38047	A1	Unilever	06/01/1995	A23D	9/00	X
		WO	99/56558	A1	Raisio Benecol OY	07/08/2003	A23D	9/007	X
		WO	98/03671		Nagase Biochemicals, LTD	01/29/1998	C12P	7/64	X
		EP	0 616 780		Compania General Del Algarrobo	09/28/1994	A23L	1/308	X
		JP	60-196157		Amano Seiyaku	10/04/1985	A23L	1/03	
		JP	63-216490		Sagami Chem. Res. Ctr.	09/08/1988	C12P	7/64	
		JP	2000/245442		Sagami Chem. Res. Ctr.	09/12/00	C12n	1/20	
		JP	2001/309797		Nat. Institute of Advanced Industrial Science & Tech.	11/06/2001	C12P	7/64	

Examiner Signature

Date Considered

IDS cited in spec